

Notice of Allowability

Application No.

10/796,669

Examiner

Delia M. Ramirez

Applicant(s)

WANG ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/16/2007.
2. ☒ The allowed claim(s) is/are 1-3 and 5-12.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Status of the Application

Claims 1-13 are pending.

Amendment of claims 1, 5, 13 in a communication filed on 3/16/2007 is acknowledged.

Applicant's submission of amendments to the specification which delete hyperlinks and add sequence identifiers to comply with sequence rules is acknowledged.

In a telephone conversation with Mr. Mark Farley on 4/9/2007, an agreement was reached to amend claims 1-2, 5, 8-10, 12, and cancel claims 4 and 13 to place the application in condition for allowance.

Drawings

1. The drawings submitted on 3/9/2004 have been reviewed and are accepted by the Examiner.

Examiner's Amendment

2. An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

3. Authorization for this Examiner's amendment was given in a telephone interview with Mr. Mark Farley on 4/9/2007.

4. Please cancel claims 4 and 13.

5. Please replace claims 1-2, 5, 8-10, 12 as follows:

1. An isolated type II restriction endonuclease which recognizes only a particular DNA sequence for initiating DNA cleaving, wherein the enzyme comprises the amino acid sequence of SEQ

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ID NO: 3, and wherein the particular DNA sequence recognized by the type II restriction endonuclease comprises the sequence 5'-CCATC-3' as set forth in SEQ ID NO: 1.

2. The isolated type II restriction endonuclease according to claim 1, wherein the DNA is from an organism.

5. The isolated type II restriction endonuclease according to claim 1, wherein the type II restriction endonuclease cleaves the DNA between the fourth and fifth bases downstream from the 3' end of SEQ ID NO: 1, and in the complementary strand, between the fifth and sixth bases downstream from the 5' end of the complement of SEQ ID NO: 1.

8. An isolated nucleic acid encoding a type II restriction endonuclease comprising the amino acid sequence of SEQ ID NO: 3.

9. The isolated nucleic acid according to claim 8, wherein the nucleic acid has the sequence of SEQ ID NO: 2.

10. The isolated nucleic acid according to claim 9, wherein the nucleic acid is isolated from *Helicobacter pylori*.

12. An isolated transformed cell comprising a vector according to claim 11.

Reasons for Allowance

6. The following is an Examiner's statement of reasons for allowance. Although the prior art discloses type II restriction endonucleases recognizing the sequence set forth in SEQ ID NO: 1 (BccI available through New England BioLabs, Inc.), the Examiner has found no teaching or suggestion in the prior art directed to a type II restriction endonuclease comprising SEQ ID NO: 3 or a nucleic acid encoding the type II restriction endonuclease of SEQ ID NO: 3. Therefore, claims 1-3, 5-12 directed to a type II restriction endonuclease comprising SEQ ID NO: 3, a nucleic acid encoding the type II restriction

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endonuclease of SEQ ID NO: 3, vectors and host cells comprising the nucleic acid are allowable over the prior art of record.

Conclusion

7. Claims 1-3, 5-12 are allowed.
8. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Delia M. Ramirez whose telephone number is (571) 272-0938. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Ponnathapura Achutamurthy can be reached on (571) 272-0928. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.



Delia M. Ramirez, Ph.D.
Primary Patent Examiner
Art Unit 1652

DR
April 10, 2007